

July 12, 2016

Senate Judiciary Committee Clerk,

Subject: SB 1027

I found out Tuesday that the Senate Judiciary Committee is taking up Senate Bill 1027 this Wednesday. I wrote my senator: Senator Curtis Hertel, Jr. who sponsored the bill. I sent a copy to each senator on the Senate Judiciary Committee. I am sending it to you to make sure that they received their email / letter.

I am very concerned that this bill is too broad like others that have caused the high rate of Mass Incarceration in Michigan - ranking in third or fourth in the nation with the number of prisoners. People accused of Criminal Sexual Conduct (CSC) already have a terrible burden placed on them when they are released. Some of them are required to wear GPS for the rest of their lifetime. Currently, GPS costs \$15 per day. People with felony records have great difficulty getting a job because Michigan legislators refuse to pass "Ban the Box" laws removing the question on job applications which makes it almost impossible for them to find a job without the restrictions that will result from your SB 1027.

SB 1027 is so broad it would ban Registrants from working for or volunteering at most Michigan organizations. A few examples: 1) they could not work at McDonalds because it has customers less than 18 years old; 2) they would not be able to volunteer at their churches, because churches work with individuals less than 18 and victims of sexual assault, 3) sex offenders who are also victims of sexual assault would not be allowed to participate in support groups with other victims of sexual assault. Also, how would one know if the organization works with victims of sexual assault, since sexual assault victims do not go around announcing this?

Michigan has the over 40,000 people on it Registry, the 4th highest state for percentage of its population on a Registry, the majority of Michigan Registrants are on lifetime registry, there are people on Michigan's Sex Offender Registry whose offenses were not sexual and whose records have been expunged, and sex offenders have low recidivism rates compared to other types of criminals.

I would agree 100% with your bill if it were narrowly tailored to:

- * provide notification to sexual assault victims of the sex offenders who were volunteering at this specific kind of clinic
- * to ensure background checks on all volunteers, at this specific kind of clinic, that "work with" the victims of sexual assaults.
- * to allow for sex offenders to interact with the victims of sexual assault, at these specific clinics, only if those victims are notified, give explicit consent, and are over the age of 18
- * to ensure supervision of any and all interactions between employee sex offenders and any victims of sexual assault of violence.
- * or even to prevent sex offenders from volunteering at these specific types of clinics.

Instead, your bill takes a different approach adding the following words to the Michigan SORNA:

An individual required to be registered under article II shall not do one or more of the following

WORK AT OR VOLUNTEER FOR AN ORGANIZATION THAT WORKS WITH INDIVIDUALS WHO ARE LESS THAN 18 YEARS OF AGE OR VICTIMS OF SEXUAL ASSAULT

I have a number of specific concerns with what appears to be overbroad language:

1. Organization is not a "term of art" and the bill makes no attempt to limit the term to demonstrate a narrower

legislative intent.

Because support groups, businesses, and even consumer locations could be considered "organizations" under this wording, enactment could be used to prosecute offenders on the registry for participation in virtually all social or employment behavior.

2. The law as written puts an unfair burden of proof on the Sex Offender.

From everything I have read in the press about what happened at The Listening Ear, the sex offenders were not at fault. But, instead of punishing the clinic, or creating legislation putting the onus on the clinics, you put all of the onus on the offender to know the personnel decisions across the board of an "organization."

This could be quite problematic. As you know, by making this amendment to the Michigan SORNA you create a cause of action against offenders on the registry who are found not to be in compliance at any time. The punishment for such a cause of action is severe and certain.

But, how could an offender who worked, for instance, in a janitorial capacity at an "organization" be expected to know the age and sexual abuse history of every person who walks through the doors of that particular "organization?" It would not be hard to demonstrate thousands of examples of the dangers this language represents.

3. "Works With" is not a phrase of art and the bill makes no attempt to limit the term to demonstrate a narrower legislative intent.

An offender, innocently going to work at his or her job at an "organization" could theoretically be arrested and serve multiple years of prison time because a man or woman with a history of being sexual abused "worked with" someone else at the "organization" totally independent of that offender and in a manner that had nothing to do with sexual abuse.

An offender, innocently going to work at his or her job at an "organization" could theoretically be arrested and serve multiple years of prison time because a person who happened to be under the age of 18 "worked with" someone else at the "organization" totally independent of that offender.

In addition, since many offenders on the registry have also been the victims of sexual violence themselves the legislation could perversely create a cause of action because the offender himself (or herself) "worked with" that "organization."

Perhaps more important, because victims of sexual violence often become abusers and because some people are both abused and abusers, counseling can often be the best hope for preventing future abuses. It is also very possible that your bill could prevent abusers who have been abused from getting much-needed assistance.

Believe it or not, I share your shock that an organization like The Listening Ear did not notify its clients, allow them to give or refuse consent, or provide supervision during interactions between people on the registry and people who had been the victims of sexual violence.

I am, however, very confused by how you chose this wording.

Thank you very much for your time.

Sincerely

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